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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Petition of US WEST Communications, Inc.)
for a Declaratory Ruling Regarding)
the Provision of National Directory)
Assistance)

172
CC Docket No. 97-142

COMMENTS OF
AMERITECH

I. Introduction and Summary

Ameritech respectfully submits these Comments in support of US WEST's Petition for Declaratory Ruling¹, on which the Commission has sought public comment.² As noted by US WEST, many of the points made in its Petition effectively refute allegations made by MCI in its pending Complaint³ regarding Ameritech's National Directory Assistance ("National D/A") service. Although US WEST's implementation of National D/A differs from Ameritech's in one respect -- its transport of incoming customer traffic to centralized operator centers across LATA boundaries⁴ -- it is clear that US WEST's National D/A

¹ In the Matter of Petition of US WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance, Petition for Declaratory Ruling, filed July 17, 1997 (hereinafter "Petition").

² Public Notice, DA 97-1634, rel. August 1, 1997.

³ MCI Telecommunications Corp. v. Illinois Bell et al., FCC File No. E-97-19, Complaint, filed April 10, 1997 (hereinafter "MCI Complaint"). MCI's Complaint also contained several counts setting forth various allegations regarding another Ameritech offering known as 1-800-AMERITECH; those allegations are not relevant to this proceeding.

⁴ Petition, at 3.

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service nonetheless does not constitute a prohibited interLATA service under the Communications Act of 1934, as amended by the Telecommunications Act of 1996.⁵ Moreover, use of the "411" code to provide customer access to National D/A service is not prohibited by any existing Commission precedent. For these reasons, US WEST is fully entitled to the Declaratory Ruling it seeks.

II. US WEST's implementation of National D/A service is not a prohibited "interLATA service" under the applicable statutory language.

The term "interLATA service" is precisely defined in the Act as "telecommunications between a point located in a [LATA] and a point located outside such [LATA]".⁶ "Telecommunications", in turn, is precisely defined as having two distinct elements: it is "the transmission, between or among points specified by the user, of information ...".⁷ The obvious logical result of these two definitions taken together is, of course, that there can be no "interLATA service" where there is no interLATA "transmission" between "points specified by the user". While US WEST's implementation of National D/A service arguably meets the first of these two requirements, it does not meet the second requirement. Thus, it cannot be an "interLATA service" under the Act.

As noted by Ameritech in responding to MCI's Complaint against it,⁸ Ameritech's implementation of National D/A service fails the first of the statute's requirements -- it

⁵ 47 U.S.C. §§ 151 et seq. (hereinafter "Act").

⁶ 47 U.S.C. § 153 (21) (emphasis added).

⁷ 47 U.S.C. § 153 (43) (emphasis added).

⁸ MCI Telecommunications Corp. v. Illinois Bell et al., FCC File No. E-97-19, Answer of Ameritech, filed May 27, 1997 (hereinafter "Ameritech's Answer"), at 11.

involves no interLATA transmission. Ameritech's National D/A service is provided in a manner which insures that a caller seeking directory assistance and the Ameritech operator providing such assistance are always in the same LATA. Hence, under the dispositive statutory language noted above, Ameritech's implementation of National D/A fails the first of the statute's requirements because there is no interLATA transmission provided by Ameritech to customers as part of the service.⁹

US WEST's National D/A service, on the other hand, fails the second statutory requirement for an interLATA service -- it does not involve transmission "between or among points specified by the user." As noted in the Petition, "(c)allers to US WEST's Directory Assistance may speak to an operator in the LATA from which they call, but the greater likelihood is that the operator will be in another LATA, and likely in another state."¹⁰ A customer using US WEST's National D/A service does not specify that she wishes to contact an operator in any particular LATA; she merely seeks the telephone number of another party that she desires to call. Since there is no election to establish either an interLATA or an intraLATA transmission path, such a caller cannot be said to "specify" the end point of a call. Thus, because the second requirement of the statute is unsatisfied, US WEST's service cannot be an "interLATA service" under the Act.

⁹ Understandably in these circumstances, in attacking Ameritech's National D/A service, MCI urged the Common Carrier Bureau to ignore the Act's explicit language in favor of superseded judicial decisions interpreting the old AT&T Consent Decree. MCI Complaint, at 12, citing U.S. v. Western Electric Co., Civil Action No. 82-0192 (D.D.C. Oct. 30, 1984), slip op. at 4. Unfortunately for MCI, the 1996 Act expressly stated that its own terms would govern and directed that conduct previously subject to the decree "shall not be subject to the restrictions and the obligations imposed by such Consent Decree." Telecommunications Act of 1996, Pub. L. 105-104, § 601(a)(1), 100 Stat. 143. In fact, in light of Congress' unambiguous language, Judge Greene terminated the decree upon which MCI relied. U.S. v. Western Electric Co., 1996-1 Trade Cas. ¶ 71,362 (Apr. 11, 1996).

¹⁰ Petition, at 13.

Even if the statutory definition of an "interLATA service" were not dispositive of the matter, US WEST's service is expressly permitted by other language in the Act. The BOCs have provided Directory Assistance services in the centralized fashion described by US WEST since long before the passage of the 1996 Act, because it is more efficient than maintaining Directory Assistance centers in each LATA. Since the passage of the 1996 Act, they have done so in reliance upon Congress' exception to the interLATA prohibition for "previously authorized activities."¹¹ Precisely because of the efficiencies afforded by centralization, the MFJ court did in fact authorize the activity now engaged in by US WEST, specifically noting that "the decree does not prohibit the Operating Companies from providing their own Official Services, including, if necessary, by the construction of the appropriate inter-LATA facilities."¹² Directly to the point at hand, the Court's definition of "Official Services" includes "service circuits ... used to receive repair calls and directory assistance calls ...".¹³ This language could not have been more clear in its authorization of the conduct at issue in US WEST's Petition.

III. National D/A service per se is not an "interLATA service".

As noted by US WEST,¹⁴ no provision of the Act prohibits a Bell Operating Company ("BOC") from providing Directory Assistance services of any kind. Likewise,

¹¹ In enacting the 1996 Act, Congress granted an exemption from its requirements for BOC provision of interLATA services for "any activity to the extent authorized by ... an order entered by the United States District Court for the District of Columbia ... if such order was entered on or before such date of enactment ...". 47 U.S.C. 271 (f).

¹² U.S. v. Western Electric Co., Inc., 596 F Supp. 1057, 1101 (D.D.C., 1983).

¹³ Id., at 1098 (n. 179) (emphasis added).

¹⁴ Petition, at 5.

no provision of the Act purports to limit the scope of telephone numbers a BOC may lawfully provide to its Directory Assistance customers.

Ignoring this indisputable fact, MCI has argued without support that "interLATA directory assistance -- i.e., providing callers with telephone numbers of subscribers in other LATAs outside a BOC's local service region -- is an interLATA service to be provided by IXCs."¹⁵ MCI's wishful claim to the National D/A market segment notwithstanding, the clear statutory definition discussed above requires that an interLATA service must include interLATA transmission between or among points specified by the user. There is simply nothing in the Act or elsewhere upon which to base a credible argument that National D/A service is, by its nature, an interLATA service as that term has been defined by Congress.

¹⁵ MCI Complaint, at 11 (emphasis added).

IV. The use of 411 as an access code for National D/A is not prohibited.

The Commission's recent N11 Order requires that any local exchange carrier ("LEC") using 411 to provide access to an enhanced service must provide nondiscriminatory use of the 411 code to access competing enhanced services.¹⁶ As explained in Ameritech's pending Petition for Clarification in that matter, the N11 Order distinguished between basic and enhanced services, noting that some services -- including directory assistance services -- have been classified by the Commission as "adjunct to basic" services and thus not treated as enhanced services.¹⁷

Ameritech's Petition in the N11 Proceeding seeks clarification that the Commission did not intend to append to its long-standing definition of "adjunct to basic" a new requirement that the service at issue must be of an undefined "local" character.¹⁸ For example, classification of a particular service as either enhanced or adjunct to basic based upon some "local" character would lead to the absurd result that a BOC offering speed dialing -- a service definitively categorized as adjunct to basic -- could no longer permit customers to store telephone numbers outside their LATAs in their speed dialing tables. Similarly, call forwarding service -- also categorized by the Commission as adjunct to basic -- could change from the adjunct to the enhanced category if a "forward-to" number outside the LATA were entered by the customer. At any rate, as the matter raised by US

¹⁶ In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, rel. February 19, 1997 (hereinafter "N11 Order"), at 25.

¹⁷ In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, Ameritech's Petition for Clarification, filed March 28, 1997 (hereinafter "Petition for Clarification"), at 8-14.

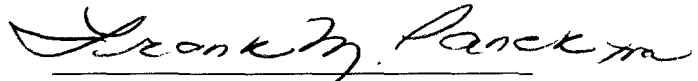
¹⁸ Id., at 14.

WEST's instant Petition is still pending before the Commission, the N11 Order cannot serve as authority for a ruling against US WEST.

V. Conclusion

As explained above, US WEST's Petition is fully supported by both statutory authority and all relevant FCC precedent. For this reason, the Commission should timely grant US WEST's request for the Declaratory Ruling it seeks.

Respectfully submitted,

A handwritten signature in cursive script, reading "Frank M. Panek".

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